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Mikko K. Virta

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER

CARDENAS NAVIA, JAIME F

ART UNIT

PAPER NUMBER

3624

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,105	Applicant(s) VIRTA, MIKKO K.	
	Examiner Jaime Cardenas-Navia	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. This **NON-FINAL** office action is in response to communications received on June 2, 2009. Claims 28-31 have been amended. Claim 32 has been added. Claims 1-32 are currently pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2009 has been entered.

Response to Arguments

3. Applicant's arguments have been fully considered by the Examiner. In particular, Applicant argues that:

(A) regarding new claim 32, the definition of personal time as time when no bookings by others are allowed overcomes the prior art;

(B) regarding independent claims 1, 17, 18, 23, and 27, neither Dean nor Barto teach or suggest the 'dynamic scheduling' of the claimed invention; and

(C) Examiner has not established a proper *prima facie* case of obviousness, as one skilled in the art would not have considered combining Dean with Barto.

Regarding argument (A), Examiner respectfully disagrees. Lines 2 and 3 of claim 1, from which new claim 32 depends, already contain this definition of personal time. One of the

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goals of any calendar system is to prevent double-booking. In col. 6, lines 12-24 of Dean, a user can reject scheduling requests by others during a previously scheduled time interval, thus satisfying the definition of personal time.

Regarding argument (B), Examiner respectfully disagrees. Barto, which pertains to scheduling, teaches the dynamic scheduling of the claimed invention. In col. 9, lines 25-37 of Barto, a 'commitment window' (CW) is a time interval during which the provider commits to meet an 'engagement'. The 'CW' of Barto is analogous to the 'one respective interval of time during which the at least one amount of personal time is to be reserve' of the claimed invention, and the 'engagement' of Barto is equivalent to the 'at least one amount of personal time' of the claimed invention. Col. 9, lines 25-37 of Barto also describe what is called a working window (WW), which is initially the same size as the CW, but can shrink down to the length of time of the engagement (defined as a 'kernel') as other engagements infringe on the CW. Thus, Barto clearly teaches the 'dynamic scheduling' of the claimed invention.

Regarding argument (C), Examiner respectfully disagrees. The USPTO has issued examination guidelines for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in KSR International Co. v. Teleflex Inc. First an Examiner must complete the basic factual inquiries of Graham v. John Deere Co. Next, seven rationales are provided in 72 Fed. Reg. 57526 (dated October 10, 2007) to determine whether the claimed invention would have been obvious to one of ordinary skill in the art: (A) combining prior art elements according to known methods to yield predictable results; (B) simple substitution of one known element for another to obtain predictable results; (C) use of known technique to improve similar devices (methods, or products) in the same way; (D) applying a known technique to a known device

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(method, or product) ready for improvement to yield predictable results; (E) "obvious to try"--- choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and (G) some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. The MPEP further clarifies that the prior art references must disclose or suggest all of the claimed features. See MPEP 2143.

Examiner has used rationale (A), combining prior art elements according to known methods to yield predictable results, to combine Dean and Barto. As Examiner asserts in the rejections, all claimed elements were taught by either Dean and/or Barto, and could have been combined by known methods to yield predictable results. Since Dean and Barto both teach electronic scheduling, a computer programmer of ordinary skill in the art could have combined the dynamic scheduling functions of Barto with the schedule conflict reducing functions of Dean to yield predictable results, particularly in object-oriented programming. Though Barto pertains to resource scheduling, scheduling is scheduling, as a computer processing data does not distinguish between human and machine resources. Thus, Examiner has properly established a *prima facie* case of obviousness.

Official Notice

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4. The Examiner would like to note the requirements for traversing official notice from MPEP § 2144.03:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b).

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate [emphasis added].

Because Applicant has not specifically pointed out any errors in the Examiner's action, the officially noticed facts in the previous office action are deemed admitted prior art.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 3-24, and 27-32 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Dean et al. (US 6,167,379) in view of Barto et al. (US 7,069,097 B1).

Regarding claim 1, Dean teaches a method comprising:

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recording in an electronic schedule apparatus at least one amount of personal time during which no bookings by others are allowed (col. 2, lines 16-19, fig. 1, 2, electronic schedule apparatus, fig. 4, col. 6, lines 12-24, user can reject scheduling requests during a previously scheduled time interval);

receiving at the electronic schedule apparatus an electronic inquiry about availability for a booking (col. 2, lines 6-11);

determining or indicating whether the at least one amount of personal time can fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict (col. 2, lines 11-15); and

rejecting the booking in case of a scheduling conflict between the booking and the personal time (col. 6, lines 12-24, option to reject booking causing scheduling conflict).

Dean does not expressly teach:

storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved,

wherein each of the at least one amount of the personal time is less than the respective interval of time.

Barto teaches:

storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved (col. 9, lines 25-37, kernel is the personal time, working window is the interval of time),

wherein each of the at least one amount of the personal time is less than the respective interval of time (col. 9, lines 25-37).

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The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 3, Dean teaches providing the user with an option whether or not to accept the booking, in case of a positive determination or indication that the personal time can fit (col. 2, lines 11-15, col. 4, lines 44-56, col. 6, lines 12-24).

Regarding claim 4, Dean teaches automatically making the booking, in case of a positive determination or indication that the personal time can fit (col. 6, lines 25-31).

Regarding claim 5, Dean teaches sending a user availability message in response to the electronic inquiry, in case of a positive determination or indication that the personal time can fit (col. 2, lines 16-19).

Regarding claim 6, Dean teaches providing the user with a conflict notification and an option whether or not to accept the booking, in case of a negative determination or indication that the personal time cannot fit (col. 4, lines 44-56, col. 6, lines 26-41).

Regarding claim 7, Dean does not teach wherein the at least one respective interval of time represents the user's midday, workday, work week, or any user definable period.

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Barto teaches wherein the at least one respective interval of time represents the user's midday, workday, work week, or any user definable period (col. 9, lines 25-37).

The inventions of Dean and Barto pertain to scheduling. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 8, neither Dean nor Barto explicitly teach wherein the at least one amount of the personal time is given as a percentage of the respective interval of time.

Official notice is given that using percentage is an equivalent form to using hours and minutes.

All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage in mathematical simplicity of using percentages.

Regarding claim 9, Dean teaches wherein the at least one amount of the personal time is given as a particular continuous or non-continuous duration (col. 2, lines 6-15, it is inherent that the personal time is given as a particular continuous or non-continuous duration).

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Regarding claim 10, Dean teaches reserving at least one fixed block of the personal time (col. 2, lines 6-15).

Regarding claim 11, Dean teaches comparing a booking type to a type of the personal time, and if consistent then the scheduling conflict will not occur (col. 2, lines 6-15).

Regarding claim 12, Dean does not teach wherein the electronic inquiry indicates at least one amount of booking time, and at least one respective booking interval that is greater than or equal to the booking time.

Barto teaches wherein the electronic inquiry indicates at least one amount of booking time, and at least one respective booking interval that is greater than or equal to the booking time (col. 9, lines 6-8, 25-37).

The inventions of Dean and Barto pertain to scheduling. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 13, Dean does not teach wherein the user availability message includes a question as to whether the availability should be confirmed by consulting the user.

However, Dean teaches both that the availability can be confirmed automatically, and that the availability can be confirmed by consulting the user, such that some option for

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determining whether the availability should be confirmed by consulting the user is implied (col. 6, lines 12-15).

Official notice is given that question prompts are old and well-known

It would have been obvious to one skilled in the art at the time of the invention to combine the teaching of Dean with official notice, motivated by the teaching in Dean that for some situations, such as when the booking seeking to be scheduled is at a location distant from where the user is before the booking time, it is greatly advantageous for the user to confirm availability (col. 6, lines 12-40). The advantage of avoiding conflicts a computer cannot predict is why it would have been obvious to ask the party seeking a booking whether or not the availability should be confirmed by consulting the user.

Regarding claim 14, Dean does not teach wherein there is a positive determination or indication that the personal time can fit, and the booking is made by booking both the booking time as well as the respective booking interval which is greater than the booking time.

Barto teaches wherein there is a positive determination or indication that the personal time can fit, and the booking is made by booking both the booking time as well as the respective booking interval which is greater than the booking time (col. 9, lines 6-8, 25-41, 45-47).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to

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combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 15, Dean does not teach wherein a further reservation effectively causes a contraction of the booking interval, if the further reservation has additional requirements about when the booking will occur.

Barto teaches wherein a further reservation effectively causes a contraction of the booking interval, if the further reservation has additional requirements about when the booking will occur (col. 9, lines 25-37).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 16, Dean does not teach displaying the amount of the personal time and the respective interval of time on a shared or individual calendar.

Barto teaches the step of displaying the amount of the personal time and the respective interval of time on a shared or individual calendar (col. 9, lines 58-62, it is inherent that the calendar would display itself).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 17, Dean and Barto teach the method of claim 1 (see above regarding claim 1), and it is inherent that the method carried out by portable electronic organizers (Dean, col. 1, lines 14-16) is stored on a computer-readable medium.

Regarding claim 18, Dean teaches an apparatus comprising:

a personal time recorder, configured to record at least one amount of personal time during which no other bookings by others are allowed (col. 2, lines 16-19, fig. 1, 2, electronic schedule apparatus, fig. 4, col. 6, lines 12-24, user can reject scheduling requests during a previously scheduled time interval);

a receiving component (fig. 1, 2), configured to receive an electronic inquiry about availability for a booking (col. 2, lines 6-11); and

a transmitting component (fig. 1, 2), configured to reject the booking in case of a scheduling conflict between the booking and the personal time, wherein at least one amount of personal time cannot fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict (col. 2, lines 11-15).

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Dean does not teach:

an interval storage unit, configured to store at least one respective interval of time during which the at least one amount of the personal time is to be reserved; and

a user calendar database, configured to integrate data from the personal time recorder and the interval storage unit into an electronic schedule;

wherein each of the at least one amount of the personal time is less than the respective interval of time.

Barto teaches:

an interval storage unit, configured to store at least one respective interval of time during which the at least one amount of personal time is to be reserved (col. 9, lines 25-37); and

a user calendar database, configured to integrate data from the personal time recorder and the interval storage unit into an electronic schedule (Abstract, line 1, col. 9, lines 58-62).

wherein each of the at least one amount of the personal time is less than the respective interval of time (col. 9, lines 25-37).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

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Regarding claim 19, Dean teaches notifying the user if a proposed calendar update causes any conflict with schedule information already integrated into the user calendar database (col. 2, lines 6-15).

Dean does not teach an error check unit configured to notify the user if the amount of the personal time is more than the respective interval, or if the personal time and the respective interval cause any conflict with scheduling information already integrated into the user calendar database.

Barto teaches an error check unit configured to notify the user if the personal time and the respective interval cause any conflict with scheduling information already integrated into the user calendar database (col. 9, lines 45-62).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 20, Dean teaches wherein the device is a mobile or fixed terminal configured to interact directly with the user (col. 1, lines 8-11, col. 2, lines 21-25).

Regarding claim 21, Dean teaches wherein the device is a server located remotely from a user terminal (col. 2, lines 21-25, col. 6, lines 49-57).

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Regarding claim 22, Dean teaches an inquiry processing unit, responsive to an inquiry signal, configured to access the user calendar database in order for the device to provide an availability indicator signal indicative of whether the at least one amount of personal time can fit within the at least one respective interval so as to accommodate a booking without any scheduling conflict (col. 2, lines 11-15).

Regarding claim 23, Dean teaches a system, comprising:

a user scheduling component, responsive to the personal time and interval signal, configured to provide a booking availability signal indicative of whether the at least one amount of personal time can be situated so that a booking fits into an electronic schedule (col. 2, lines 11-15); and

an inquiring terminal, responsive to the booking availability signal, configured to indicate to an operator of the inquiring terminal whether the at least one amount of personal time can be situated within the interval so that the booking fits into the electronic schedule (col. 4, lines 63-67), and configured to reject the booking in case of a scheduling conflict between the booking and the personal time (col. 6, lines 12-24).

Dean does not teach:

a user terminal, responsive to user input, configured to provide a personal time and interval signal indicative of at least one amount of personal time and a respective interval of time during which the at least one amount of personal time is reserved.

Barto teaches:

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a user terminal, responsive to user input, configured to provide a personal time and interval signal indicative of at least one amount of personal time and a respective interval of time during which the at least one amount of personal time is reserved (col. 9, lines 6-8, 25-37).

The inventions of Dean and Barto pertain to scheduling and dealing with conflicts. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Barto does not teach away from or contradict Dean, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the advantage of fewer scheduling conflicts when using dynamic scheduling.

Regarding claim 24, Dean teaches wherein the user scheduling component also is for performing at least some scheduling for the operator of the inquiring terminal (col. 2, lines 6-11).

Regarding claims 27-31, they are rejected using the same art and rationale used above for rejecting claims 18-22. This is because claims 27-31 claim an apparatus performing the same functions as the apparatus of claims 18-22.

Regarding claim 32, Dean teaches wherein said personal time is time when no bookings by others are allowed (col. 6, lines 12-24, user can reject scheduling requests during a previously scheduled time interval).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime Cardenas-Navia whose telephone number is (571)270-1525. The examiner can normally be reached on Mon-Fri, 10:30AM - 7:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 17, 2009

/J. C./
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624